

JUDGE JONES

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

X Case No.

09 CIV 6177

JAMES RIGNOLA, on behalf of himself individually  
and all others similarly situated

Plaintiff,

-against-

OXFORD COLLECTION AGENCY, INC.



Defendant.

X

Plaintiff, by and through his attorneys, FAGENSON & PUGLISI, upon knowledge as to himself and his own acts, and as to all other matters upon information and belief, brings this complaint against the above-named defendant and in support thereof alleges the following:

INTRODUCTION

1. This is an action for damages brought by an individual consumer and on behalf of a class for defendant's violations of the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. § 1692, *et seq* which prohibit debt collectors from engaging in abusive, deceptive and unfair acts and practices.

PARTIES

2. Plaintiff is a natural person who resides in this District and is a consumer as defined by the FDCPA, § 1692a(3).

3. Upon information and belief, defendant is a debt collector, as defined pursuant to 15 U.S.C. § 1692a(6). Upon information and belief, defendant is a domestic business corporation with its principal place of business in New York.

JURISDICTION AND VENUE

4. This Court has jurisdiction and venue pursuant to 15 U.S.C. § 1692k(d) (FDCPA) and 28 U.S.C. § 1331.

AS AND FOR A FIRST CAUSE OF ACTION

5. Plaintiff re-alleges paragraphs 1 to 4 as if fully re-stated herein.

6. That on or about July 11, 2008 defendant sent a collection letter to plaintiff in an attempt to collect an alleged debt incurred for personal purposes. Plaintiff received said letter. This was defendant's initial written communication with plaintiff. A copy of said letter is attached as Exhibit "1".

7. That said letter states in pertinent part:

"This is an opportunity for you to resolve this debt. If this matter has been overlooked, please be aware that it is *still legally owed*." (Emphasis added).

8. That said statement that the debt is still legally owed is deceptive to the least sophisticated consumer by indicating that the legal validity of the debt had already been decided. This statement that the debt is still legally owed is also in contradiction of the validation notice giving the consumer 30 days from receipt of the letter within which to dispute the validity of the debt. As such, the statement that the debt is still legally owed overshadows and obscures the validation notice and deters the consumer from exercising her right to dispute the debt. Said statement is therefore in violation of the FDCPA, including but not limited to §§1692e(10) and 1692g. Said statement also falsely represents the character and legal status of a debt in violation of

the FDCPA § 1692e(2)(A).

#### CLASS ALLEGATIONS

9. That plaintiff re-alleges paragraphs 1-8 as if fully re-stated herein.

10. That this action is brought on behalf of plaintiff and the members of a class. The class consists of all persons whom defendant's records reflect were sent debt collection letters within the United States and who were sent a collection letter (a) bearing the defendant's letterhead in substantially the same form as the letter sent to the plaintiff on or about July 11, 2008; (b) the collection letter was sent to a consumer seeking payment of an alleged consumer debt; (c) the collection letter was not returned by the postal service as undelivered; and (d) the letter contained violations of 15 U.S.C. §§ 1692e(10), 1692e(2)(A) and 1692g.

11. That pursuant to Federal Rule of Civil Procedure 23, a class action is appropriate and preferable in this case because:

- (A) Based on the fact that the collection letter that is the gravamen of this litigation is a mass-mailed form letter, the class is so numerous that joinder of all members is impracticable. Upon information and belief, thousands of persons have received debt collection notices from the defendant which violate the various provisions of the FDCPA.
- (B) There are questions of law and fact common to the class and these questions predominate over any questions affecting only individual class members. The principal question presented by this claim is whether defendant violated the FDCPA by sending debt collection letters which contradict, overshadow and obscure the validation

notice and which falsely represent the character and legal status of a debt by stating or implying that the debt is legally owed.

- (C) The only individual issue is the identification of the consumers who received the letters (the class members), a matter capable of ministerial determination from the records of defendant.
- (D) The claims of the plaintiff are typical of those of the class members. All are based on the same facts and legal theories.
- (E) The plaintiff will fairly and adequately represent the class members' interests. The plaintiff has retained experienced counsel. The plaintiff's interests are consistent with those of the members of the class.

12. That a class action is superior for the fair and efficient adjudication of the class members' claims. Congress specifically envisions class actions as a principal means of enforcing the FDCPA in 15 U.S.C. § 1692k. The members of the class are generally unsophisticated individuals, whose rights will not be vindicated in the absence of a class action. Prosecution of separate actions by individual members of the class would create the risk of inconsistent or varying adjudications resulting in the establishment of inconsistent or varying standards for the parties and would not be in the interest of judicial economy.

13. That if the facts are discovered to be appropriate, the plaintiff will seek to certify a class action pursuant to rule 23(b)(3) of the Federal Rules of Civil Procedure.
14. That communications from debt collectors, such as those sent by the defendant, are to be evaluated by the objective standard of the hypothetical "least sophisticated consumer".
15. That as a result of the above violations, defendant is liable to the plaintiff and the members of the class for statutory damages in an amount to be determined at the time of trial, plus costs and attorney's fees.
16. That defendant violated the FDCPA. Defendant's violations include sending debt collection letters which contradict, overshadow and obscure the validation notice and which falsely represent the character and legal status of a debt by stating or implying that the debt is legally owed, in violation of the FDCPA, §§1692e(10), 1692e(2)(A) and 1692g.

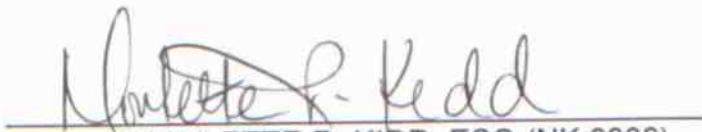
WHEREFORE, plaintiff respectfully prays that judgment be entered against the defendant as follows:

- (a) statutory damages pursuant to 15 U.S.C. § 1692k in an amount to be determined at the time of trial;
- (b) awarding class members the maximum statutory damages pursuant to 15 U.S.C. § 1692k;
- (c) reasonable attorney's fees, costs and disbursements pursuant to 15 U.S.C. § 1692k; and
- (d) for such other and further relief as may be just and proper.

DEMAND FOR TRIAL BY JURY

Plaintiff requests trial by jury on all issues so triable.

Dated: New York, New York  
July 9, 2009.



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## **EXHIBIT "1"**

## Oxford Management Services

PO Box 1991  
Southgate, MI 48195



Return Service Requested

233024107978/41065034083/327 CMS 0000587/0004

JAMES T RIGNOLA  
1235 Grand Concourse Apt 512  
Bronx, NY 10452-8123

For all payment options please visit website  
[www.oxfmgt.com](http://www.oxfmgt.com) or call the number given below:

1-866-419-2724

Office Hours (EST): M-TH 8am - 10pm, F 8am - 7pm, SAT 8am - 1pm, SUN\* (\*last Sunday of the month)

All major credit cards accepted.

Western Union Quick Collect	Pay to: Oxford Management Services Code City: CMS State: NY Account #: 31831252
MoneyGram Express Payment	Select Blue Express Payment Form 4 digit receive code 2037 Account #: 31831252
Overnight Payments to	Oxford Management Services 135 Maxss Road - Melville, NY 11747

07/11/08

RE: DEPARTMENT STORES NATIONAL BANK  
Account #: 41065034083  
Claim #: 31831252  
Current Balance: \$584.13

Dear (Estimado) JAMES T RIGNOLA:

Our office has been retained by the above named client to collect on an overdue account. This letter is an attempt to collect a debt, and any information obtained will be used for that purpose. This communication is from a debt collector. Calls to or from this company may be monitored or recorded for quality assurance.

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of the debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days from receiving this notice, this office will: obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request this office in writing within 30 days after receiving this notice, this office will provide you with the name and address of the original creditor, if different from the current creditor.

This is an opportunity for you to resolve this debt. If this matter has been overlooked, please be aware that it is still legally owed. Payment via check by phone, certified funds, funds transfer, or credit card in full will cease all collection activity. Please call us at 1-866-419-2724 to resolve this matter.

In order to ensure proper crediting and handling of your account, payment must be made payable to the above named client and must be remitted to this office.

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Nuestra oficina ha sido contratada por la compañía nombrada arriba para cobrar una cuenta que no ha sido pagada. Esta carta es un atentado de colectar una deuda y cualquier información obtenida será utilizada para ese propósito. Esta comunicación es de una agencia de colecciones. Las llamadas a o desde esta compañía se pueden supervisar o registrar para la garantía de calidad.

Al menos que usted notifique a esta oficina dentro de 30 días de recibir esta carta que usted tiene un conflicto con la validez de esta deuda o cualquier parte de ella, esta oficina va a suponer que la deuda es válida. Si usted notifica a esta oficina por escrito dentro de 30 días de haber recibido esta carta, esta oficina obtendrá verificación de la deuda u obtendrá una copia del fallo y se le enviará una copia del fallo o la verificación. Si usted le pide a esta oficina por escrito dentro de 30 días de recibir esta carta, esta oficina le puede proveer con el nombre y la dirección de donde es originalmente la cuenta, si es diferente que el acreedor actual.

Esta es una oportunidad para que usted resuelva esta cuenta. Si es una cuenta que se le ha olvidado, por favor tenga en cuenta que legalmente todavía la debe. Puede hacer pago por cheque por teléfono, cheque certificado, giro de dinero, o tarjeta de crédito en completo para que paremos nuestras actividades de cobrar la cuenta. Por favor, llámenos a 1-866-419-2724 para resolver esta situación.

Para asegurar que su cuenta sea saldada y manejada debidamente, el pago debe ser hecho al nombre del cliente nuestro nombrado arriba y debe ser remitido a esta oficina.

Sea aconsejado que nuestro cliente le ha dado instrucciones a nuestra oficina pidiendo que se haga reporte a las compañías de revisión de crédito si usted deja que esta deuda quede sin resolverse.

Sincerely, (Atentamente suyo)  
*Oxford Management Services*  
Oxford Management Services  
New York City Department of Consumer Affairs: License # 1122683

Own a Home and Looking to Refinance? Call 1-866-419-2724.

Please detach and return bottom portion in the envelope supplied. Be sure the address below shows through the return envelope window.